

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ROBERT F. COCKERILL et al., <i>Plaintiffs,</i> v. CORTEVA, INC. et al., <i>Defendants.</i>	CIVIL ACTION NO. 21-3966
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**ORDER RE VERDICT AFTER NON-JURY TRIAL AND INITATION OG
PROCEDURES UNDER FEDERAL RULE OF CIVIL PROCEDURE 53 FOR
APPOINTMENT OF MASTER**

The final oral argument following a non-jury trial in this case took place on November 25, 2024. ECF 307. As the Court stated on the record, counsel for all parties have demonstrated outstanding professional competence in representing their clients in the presentation of evidence including testimony, hundreds of trial exhibits following exchange of thousands of documents and other items during pre-trial discovery, and well-written legal memoranda on all issues. 11/25/24 Trans. 8:7–17, ECF 308.

Following argument, after the Court retired briefly to consider the presentations, the Court advised counsel on the record of a decision on Counts I and II. *Id.* at 74:20–75:7. The Court found as to Count I—Early Retirement—that Plaintiffs failed to sustain their burden of proof to recover as to Count I. *Id.* 75:1–14. The Court found as to Count II—Optional Retirement—that Plaintiffs sustained their burden of proof and found Defendants liable to Plaintiffs and the Optional Retirement Class Members as to Count II. *Id.* 75:15–20.

As the Court also stated, it was not prepared to issue a verdict on the remaining Counts of the Amended Complaint, and invited counsel to prepare memoranda limited to 10 pages, double spaced, including any references to exhibits already admitted, supplementing the November 25, 2024, oral arguments. 11/25/24 Trans. 75:21–76:13, ECF 308. These briefs are due **December 16, 2024**. ECF 306.

Further, and as stated on the record, since the trial of this case had been bifurcated and the Court only heard evidence on issues of liability, in order to proceed further, at least to Count II, the Court intended to appoint a Master under Federal Rule of Civil Procedure 53. Id. 79:8–80:14. The Master’s first task will be, following discussion with counsel, to interview employee benefit firms, preferably located in the Philadelphia area, to prepare memoranda and a proposal as to how to award damages and/or equitable relief, or “clarification” to Optional Retirement Class Members and members of any other Class on any additional Count as to which the Court finds liability against Defendants.

As provided in Fed. R. Civ. P. 53, the Court identifies Richard L. Bazelon, Esq.— a long-time friend—who has extensive experience in commercial litigation, and some experience in employee benefit matters. As provided in Rule 53, the Court will consider any other person nominated by either party for this role, any objection to Mr. Bazelon, and any objection to appointing a Master, as long as a statement is provided as to how that objecting party believes the Court should proceed in the second stage as to Count II. Id., and any other Counts on which the Court will have found in favor of Plaintiffs.

Mr. Bazelon has advised that his normal hourly rate of compensation is \$800, which the Court finds, subject to objections from counsel, to be reasonable under all the circumstances. Mr. Bazelon may have the services of a younger attorney in his firm to help with research and related matters. The Court will require both parties to forward a retainer in the amount of \$2,500.00 to Mr. Bazelon for him to begin his work. Under the governing statute, the Court may require future payments to be made by the Defendants, since Plaintiffs are a “prevailing party.” An initial report and recommendation shall be filed by the Master advising the Court of any progress within **sixty (60) days** of this order.

The Court will require any responses on the issue of Master, to be filed by **December 17, 2024**. The Court intends to promptly file detailed Findings of Fact and Conclusions of Law, along with verdicts on all remaining Counts of the Amended Complaint and also to make a prompt decision on the appointment of a Master. Counsel may contact Mr. Bazelon directly for information about his qualifications for this assignment.

BY THE COURT:

/s/ Michael M. Baylson

MICHAEL M. BAYLSON, U.S.D.J.

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